761551N25A - SH-AD-32A (2/72)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

A Tradition of Service

DATE: December 15, 2010

OFFICE CORRESPONDENCE FILE NO. SH2246592

FROM: ERIC B. SMITH, COMMANDER
LEADERSHIP AND TRAINING DIVISION

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:
DEPUTY NOEL LOPEZ #[redacted]
EAST LOS ANGELES STATION**

Deputies Noel Lopez and [redacted] were working Unit 20B1. As they drove their marked patrol car north on Townsend Avenue, they saw Suspect Marquez standing on the west side of the street holding a beer can in his hand. As they came abreast of the suspect, he looked in their direction and immediately ran south bound on the sidewalk away from them. Deputy Lopez exited the patrol car and saw the suspect reaching toward his waistband as he chased the suspect. Deputy [redacted] exited the patrol car and followed behind Deputy Lopez.

Deputy Lopez saw Suspect Marquez holding a black handgun in his right hand. Deputy Lopez ordered the suspect to drop the gun while yelling out, "He's got a gun!" to Deputy [redacted] Not complying, Suspect Marquez ran into the middle of the street and continued running south. Deputy [redacted] saw Suspect Marquez was holding a gun in his right hand. As Deputy [redacted] reached for his radio microphone to put out the foot pursuit, he fell.

Deputy [redacted] got back to his feet and ran behind Deputy Lopez. The suspect ran onto the east sidewalk, then ran south adjacent to a parked red Chevy Blazer. Deputy Lopez followed, paralleling the suspect on the west side of the parked Blazer. The suspect turned north bound and ran a few steps. He stopped and pivoted to his left, while holding a handgun in his right hand. Suspect Marquez then brought the gun up and pointed it toward Deputy Lopez. Believing the suspect was going to shoot him, Deputy Lopez fired two rounds at the suspect. The suspect fell to the ground and was taken into custody.

The suspect's .40 caliber, semiautomatic pistol, containing six live rounds in the magazine and one live round in the chamber, was recovered at the scene.

Suspect Marquez sustained gunshot wounds. He was transported to Los Angeles County/USC Medical Center where he was treated.

On October 28, 2010 the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MPP §§ 3-01/025.00, Use of Force; 3-01/025.30, Use of Firearms and Deadly Force; 3-01/025.10, Unreasonable Force; and 3-01/050.10, Performance to Standards.

Concerning:

MPP § 3-01/025.00, Use of Force, MPP § 3-01/025.30, Use of Firearms and Deadly Force, and MPP § 3-01/025.10, Unreasonable Force, the Committee determined that the force used by Deputy Noel Lopez #[redacted]was reasonable and necessary and in compliance with Department policy.

MPP § 3-01/050.10, Performance to Standards, the Committee determined that the tactics employed by Deputy Lopez #[redacted] in this incident were within Department Policy.

Although the shooting investigation revealed that Deputy Lopez did not shoot in all of 2008 and the first trimester of 2009 (for a total of four trimesters), no discipline was imposed because it appears that the Department was aware of his failure to shoot in 2008 and 2009; thus, the one-year statute of limitations had expired.

Eric B. Smith

Eric B. Smith, Commander

EBS:RSP/rsp

Table of Contents

Los Angeles County Sheriff's Department

Officer Involved Shooting

Report Date: 07/01/10	Bureau/Station/Facility: F.O.R. I / ELA	Admin. Invest.? ☐	Hit? ☒

Incident Information

URN: 009-08319-0278-055	Date: 07/11/09 Time: 2128
City or Station: ELA	Nature of Incident: Deputies Lopez and [redacted] saw the suspect carrying a handgun. A foot pursuit was initiated and they gave chase. The suspect rounded a vehicle and was cornered by the deputies. He turned and pointed a handgun @ Dep. Lopez who fired two rounds, striking the suspect. The suspect was handcuffed and a loaded handgun was recovered.
Location: [redacted] Townsend Avenue	

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, (Residence), Rural, School, (Street)
Other: Sidewalk

Lighting (*circle only one*): (Darkness), Daylight, Other, (Street Lights)

Weather (*circle only one*): (Clear), Cloudy, Fog, Rain

Distance: 150 feet

Incident Type (*circle one or more*): Accidental, (Armed Person), (Fleeing Suspect), (Foot Pursuit), Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, Unarmed Person, Unintentional, Vehicle Pursuit, Warrant Service, Warning Shot
Other: ______

Initiated by (*circle only one*): Arrest Warrant, Call, (Observation), One Person Unit, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, Other, (Routine Patrol)

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect	Aero Unit?	Canine Unit?
2	0	☐	☐

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty
[redacted]	[redacted]	[redacted]	[redacted]	(PM)	(Regular)

Non-Employee Witnesses

Last Name	First Name	M.I.	Street Address	City	Zip Code	Work Ph	Home Ph
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

Supervisors

Employee #	Last Name	First Name	M.I.	(*circle one or more*): On Duty / Present during shooting / Witness to shooting / Involved in shooting
[redacted]	Ridley	Ronald	W.	(On Duty)

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	Dane	Sean	J.

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Richards	Mark	G.

PSTD Use Only
SH # 2246592

Officer Involved Shooting

URN: 009-08319-0278-055

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
07/11/09	2220	07/01/10	

Employee #	Last Name	First Name	M.I
[redacted]	Kusch	Roderick	A.
[redacted]	Grote	Dinah	L.
[redacted]	Haynes	Laura	L.

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S#1	E#1	FH	ZZ	40			NN	
E#1	S#1	FH	BR	9	Y	Y	GS	AD
E#1	S#1	FH	BR	9	Y	Y	GS	AR

See Front Side

Officer Involved Shooting
Involved Employee Information

URN: 009-08319-278-055

Involved Employee

E 1

Employee # [redacted] Last Name: Lopez First Name: Noel M.I.: nmn

Sex: M Race: H | Rank: DSG | Unit Assignment: ELA | Work Assignment (Unit #, Module, etc.): 20B1

ShiftTime (*circle only one*): EM **PM** Day | ShiftType (*circle only one*): **Regular** Overtime Off Duty | Intoxication/Drug Usage? ☐ | Substance Used:

Hospital Admission? ☐ | Hospital Name: | Coroner Case? ☐ | Coroner Case #: | Interviewed? ☒

Hrs of sleep prior to shooting: 8 | Duty Time (hrs): [redacted] | Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, **Uniform w/ Vest** | Other Factors:

Age: [redacted] Height: 5' 08" Weight: 200

Range Qualification Date: [redacted] | PPC Qualification Date: [redacted] | Laser Training Date: [redacted]

Certified with Weapon Used? [redacted] | Patrol Certification? [redacted] | Certification Unit: [redacted] | Prior Shootings? [redacted] | Number of Prior Shootings: [redacted] | Directed Force: [redacted]

Weapons Fired Brand: Beretta Caliber: 9mm # Shots: 2 | Weapons Fired Brand: Caliber: # Shots:

Field Training Officer Emp # [redacted] Last Name [redacted] First Name [redacted] M.I. [redacted]

Field Training Officer Emp # Last Name First Name M.I.

E __

Employee # Last Name First Name M.I.

Sex: Race: | Rank | Unit Assignment: | Work Assignment (Unit #, Module, etc.):

ShiftTime (*circle only one*): EM PM Day | ShiftType (*circle only one*): Regular Overtime Off Duty | Intoxication/Drug Usage? ☐ | Substance Used:

Hospital Admission? ☐ | Hospital Name: | Coroner Case? ☐ | Coroner Case # | Interviewed? ☐

Hrs of sleep prior to shooting: | Duty Time (hrs): | Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest | Other Factors:

Age: Height: Weight:

Range Qualification Date: | PPC Qualification Date: | Laser Training Date:

Certified with Weapon Used? ☐ | Patrol Certification? ☐ | Certification Unit: | Prior Shootings? ☐ | Number of Prior Shootings: | Directed Force: ☐

Weapons Fired Brand: Caliber # Shots | Weapons Fired Brand: Caliber # Shots

Field Training Officer Emp # Last Name First Name M.I.

Field Training Officer Emp # Last Name First Name M.I.

E __

Employee # Last Name First Name M.I.

Sex: Race: | Rank | Unit Assignment: | Work Assignment (Unit #, Module, etc.):

ShiftTime (*circle only one*): EM PM Day | ShiftType (*circle only one*): Regular Overtime Off Duty | Intoxication/Drug Usage? ☐ | Substance Used:

Hospital Admission? ☐ | Hospital Name: | Coroner Case? ☐ | Coroner Case # | Interviewed? ☐

Hrs of sleep prior to shooting: | Duty Time (hrs): | Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest | Other Factors:

Age: Height: Weight:

Range Qualification Date: | PPC Qualification Date: | Laser Training Date:

Certified with Weapon Used? ☐ | Patrol Certification? ☐ | Certification Unit: | Prior Shootings? ☐ | Number of Prior Shootings: | Directed Force: ☐

Weapons Fired Brand: Caliber # Shots | Weapons Fired Brand: Caliber # Shots

Field Training Officer Emp # Last Name First Name M.I.

Field Training Officer Emp # Last Name First Name M.I.

See Other Side

Officer Involved Shooting
Suspect Information

URN: 009-08319-0278-055

Suspect Information

S 1

Last Name: Marquez		First Name: Alexander	M.I. F.
AKA Last Name:		First Name: Alex, "Criminal" or "Sicko"	M.I.
Sex: M Race: H	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]
Work Phone: [redacted]	Home Phone: [redacted]	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 24 D.O.B. 08/02/89	Height: 5' 03" Weight: 110	FBI # [redacted]	CII # [redacted]
Booking # 1980117	Primary Charge: 245(D)(1) P.C.	Secondary Charge: 12021(a) P.C.	
Coroner Case? [ ]	Coroner Case #	Intoxication/Drug Usage? [X]	Substance Used: Beer
Armed? [X]	Apprehended? [X]	Mental Illness? [ ]	Criminal History? [redacted]
Vehicle Make		Model:	Year:

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? [ ]	Coroner Case #	Intoxication/Drug Usage? [ ]	Substance Used:
Armed? [ ]	Apprehended? [ ]	Mental Illness? [ ]	Criminal History? [ ]
Vehicle Make		Model:	Year:

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? [ ]	Coroner Case #	Intoxication/Drug Usage? [ ]	Substance Used:
Armed? [ ]	Apprehended? [ ]	Mental Illness? [ ]	Criminal History? [ ]
Vehicle Make		Model:	Year:

S__

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? [ ]	Coroner Case #	Intoxication/Drug Usage? [ ]	Substance Used:
Armed? [ ]	Apprehended? [ ]	Mental Illness? [ ]	Criminal History? [ ]
Vehicle Make		Model:	Year:

See Other Side

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE SUMMARY
DEPUTY-INVOLVED HIT SHOOTING
IAB #SH2246592

URN:	009-08319-0278-055
DATE / TIME:	Saturday, July 11, 2009, 2128 hours
LOCATION:	[redacted] S. Townsend Avenue, East Los Angeles, California, 90023
SUSPECT:	Alexander Marquez, MH/23, booking number #1980117 "Laguna Park Viking" gang member, moniker: "Criminal"
PERSONNEL:	Deputy Noel Lopez, #484618, Unit 20B1, PM's Deputy [redacted]

On July 11, 2009, the Internal Affairs Bureau's Force and Shooting Response Team responded to the City of Los Angeles, regarding a deputy involved, hit shooting. The team consisted of Lieutenant Roderick Kusch, and Sergeants Dinah Grote and Laura Haynes. Attorney Benjamin Jones of the Office of Independent Review also responded.

> **IAB NOTE:** IAB Lieutenant Rod Kusch checked to see that the watch commander, Lieutenant Jeff Adams, took reasonable steps to ensure that the involved and witness personnel did not discuss the incident among themselves or with uninvolved persons prior to being interviewed by the assigned investigators, and that the involved and witness personnel did not collectively consult with their attorney or representative. In addition, IAB Lieutenant Kusch checked to see if the watch commander attempted to have involved and witness personnel gather in the company of a supervisor (Sergeant Ron Ridley) until they have provided a statement to the assigned investigators.

When the team arrived at the location there were an active command post and containment of the crime scene area. Investigators learned that the series of events which occurred culminated into a deputy involved, hit shooting, involving Deputy Noel Lopez, and that the suspect was struck by gunfire. The personnel involved in the incident are uniformed patrol deputies working a summer enforcement "no-call," two-person unit. The criminal investigation is being handled by Homicide Detectives, Barry Hall and Richard Biddle.

SYNOPSIS:
Deputies Lopez and [redacted] were working Unit 20B1, which is a Summer Enforcement Team, no call car assignment. As they drove their marked patrol car north on Townsend Avenue, they saw the suspect standing on the west side of the street, near parked vehicles, holding a beer can in his hand. As they came abreast of the suspect, he looked in their direction and immediately turned to the west sidewalk and ran south bound on the sidewalk away from them. Deputy Lopez exited the patrol car and saw the suspect reaching toward his waistband as he chased the suspect on foot on the west sidewalk. [redacted] exited the patrol car and followed behind Deputy Lopez.

As the suspect ran, Deputy Lopez saw Suspect Marquez holding a black handgun in his right hand. Deputy Lopez ordered the suspect to drop the gun while yelling out, "He's got a gun!" to Deputy [redacted] Not complying, Suspect Marquez cut east bound into the middle of the street and continued running south, followed by Deputies Lopez and [redacted] After Deputy [redacted] heard Deputy Lopez yell out about the gun, Deputy [redacted] looked at Suspect Marquez and saw he was holding a gun in his right hand while he ran. As Deputy [redacted] reached for his radio microphone to put out the foot pursuit, he fell to the ground striking his right knee, right wrist, and right arm. Refer to the Foot Evaluation Form, presented as ***Exhibit F***.

Deputy [redacted] got back to his feet and ran behind Deputy Lopez. The suspect failed to stop as ordered, and cut east onto the east sidewalk, then ran south adjacent to a parked red Chevy Blazer, which was parked on the east curb facing north. Deputy Lopez followed, paralleling the suspect on the west side of the parked Blazer, then to the rear of the vehicle. The suspect turned north bound and ran a few steps. He stopped and pivoted to his left, while holding a handgun in his right hand. Suspect Marquez then brought the gun up and pointed it toward Deputy Lopez. Believing the suspect was going to shoot him, Deputy Lopez fired two rounds at the suspect. The suspect fell to the ground and was taken into custody.

Suspect Marquez sustained two gunshot wounds. One round struck his abdomen and the other struck his left arm and exited out his right arm. He was transported to Los Angeles County/USC Medical Center where he was treated for his gunshot wounds and listed in stable condition.

Suspect Marquez is a "Laguna Park Viking" street gang member with a moniker of "Criminal," and has an extensive criminal history.

The suspect's .40 caliber "High Point" semiautomatic pistol, containing six live rounds in the magazine and one live round in the chamber, was recovered at the scene. Two expended 9mm shell casings were also recovered at the scene.

Homicide Bureau Detectives Richard Biddle and Barry Hall arrived and took control of the investigation. For further, refer to the Homicide case book, presented as ***Exhibit A***.

> **IAB Note:** Several minutes prior to the shooting and unbeknownst to Deputies Lopez and [redacted] East Los Angeles Sheriff's Station personnel received a disturbance call for service regarding gang members harassing pedestrians at the location Suspect Marquez ran from. Also, the day prior to the shooting, on July 10, 2009, another call for service was entered for the same location regarding gang members hanging out. For further, refer to the call Incident History Reports presented in ***Exhibit A, pages 52 and 53***, and a CD containing the audio of the calls for service, presented as ***Exhibit I***.

During the incident, Deputy [redacted] received minor abrasions to his right knee, right wrist, and right forearm. He did not require, nor request, medical treatment.

On November 30, 2009, Deputy District Attorney Corene Locke-Noble, from the Los Angeles County District Attorney's Office, Justice System Integrity Division, concluded her investigation and determined that Deputy Lopez acted lawfully in self-defense. For further, refer to the District Attorney's Letter of Opinion, presented as ***Exhibit G***.

Prior to this shooting, Deputy Lopez last qualified with his duty weapon [redacted] For further, refer to his Training Records, presented as ***Exhibit C***.

INVOLVED PERSONNEL:
LOPEZ, Noel NMN
Deputy Sheriff, Employee #[redacted]
Field Operations I, Patrol Deputy

WORK HISTORY:
Date of Employment: 08/16/2001
Date assigned to Patrol: [redacted]
Completed Patrol Training:
Prior Shooting Incident(s):
Prior Founded Force Incident(s):

SUSPECT INFORMATION:
MARQUEZ, Alexander Fernando Jr. , MH/23, DOB: 08/02/1986, 5' 03", 110 lbs.
[redacted]

CII #[redacted] CCHRS #[redacted] MAIN #[redacted] FBI #[redacted]

A check of the CCHRS (Consolidated Criminal History Reporting System) [redacted] Refer to his previous booking photograph and CCHRS/CII printouts, presented as ***Exhibit A*, *pages 88-134***.

EMPLOYEE WITNESS:

[redacted]
Deputy Sheriff, Employee #[redacted]
Field Operations I, Patrol Deputy

NON-EMPLOYEE WITNESSES:

None.

INJURIES:

Deputy [redacted] sustained a minor abrasion to his right knee, right wrist, and right forearm, which he stated occurred when he fell to the ground. He did not require medical treatment. Refer to photographs of Deputy [redacted] injuries, presented as ***Exhibit E***.

Suspect Marquez sustained two gunshot wounds to his body. One wound struck his abdomen and the other his left arm. One of those two rounds exited the suspect's right arm. For further, refer to Suspect Marquez's medical records in ***Exhibit A*, *pages 73-85.***

PHYSICAL EVIDENCE:

Located at the deputies original contact location was a "Bud Light" can of beer on top of a parked vehicle. Located at the shooting scene was one expended bullet, two expended "WIN 9mm Luger" cartridge casings, and a black semiautomatic .40 caliber "Highpoint Firearms" pistol. The pistol was loaded with six live "Federal" rounds in the magazine and one in the chamber. Also, recovered were Suspect Marquez' pants, shoes, and shirt. Firearms Examiner David Kim collected Deputy Lopez's handgun. For further regarding the collection of evidence, refer to ***Exhibit A*, *pages 40-43*** and ***54-56***.

The evidence was photographed and collected by Forensic Identification Specialist Sarah Watson and the general area was photographed by Forensic Identification Specialist Robert Webber. Deputy Steven Tillmann #[redacted] assisted by documenting the evidence through a sketch and measurements (Legend). For further, refer to Ms. Watson

and Mr. Webber's supplemental reports in ***Exhibit A***, ***pages 63-65.*** Deputy Tillmann's sketch and measurements are presented as ***Exhibit K***, along with a CD containing photographs of the crime scene, ***Exhibit J***.

INVESTIGATORS' OBSERVATIONS:

The area of this incident is in a residential neighborhood comprised primarily of single family dwellings on a two-way street that can accommodate traffic in both directions. There is curbside parking on both the east and west sides of the street, along with a sidewalk with a raised curb. Dennison Street is the first street south of Townsend Avenue and Verona Street is the first street north of Townsend Avenue. Dennison and Verona Streets are both east/west streets. For a further description of the scene, refer to ***Exhibit A***, ***pages 41-42***.

WEAPONS USED BY DEPUTY PERSONNEL:

Deputy Noel Lopez carried his duty firearm, a 9mm Luger caliber, department-issued, Beretta, Model 92FS, semiautomatic, blue steel, serial #BER[redacted]Z, with "Winchester" 9mm Luger brand ammunition. Deputy Lopez carried his weapon with 15 rounds in the magazine and one in the chamber. During the incident, he fired two rounds. Following the shooting, Deputy Lopez's handgun was recovered and he had 13 live rounds in his magazine and one in the chamber. The ammunition did not appear to be modified in any way. The handgun and ammunition were submitted to the Firearms Laboratory under receipt number K115406.

Firearms Examiner David Kim examined and test fired Deputy Lopez's handgun and found it to be functional and within departmental and manufacturers' guidelines. It did not appear to be modified in any way. For further, refer to David Kim's report in ***Exhibit A, page 56***.

Previous to this shooting, Deputy Lopez last qualified with his department-issued Beretta handgun on [redacted] After the shooting, he qualified with his weapon on [redacted] For further, refer to his shooting scores, presented as ***Exhibit C***.

> **IAB Note:** East Los Angeles Station Operations Sergeant Michael Ortiz checked for any possible extended time off or injuries to Deputy Lopez from [redacted] which possibly prevented him from performing his mandatory weapons qualifications. Sergeant Ortiz stated there were no known reason(s) for Deputy Lopez's failure to qualify [redacted]

WEAPON USED BY THE SUSPECT:

Suspect Marquez pointed a loaded .40 caliber "High Point" semiautomatic pistol at Deputy Lopez. The pistol's safety was in the "on" position. In a check through the Automated Firearms System, the pistol had a "no record" return. For further, refer to the Firearms Examiner Report listed in ***Exhibit A***, ***pages 54, 55, 57-60***.

PROPERTY DAMAGE:

There was no noted damage to any property.

CRIMINAL INVESTIGATION CHARGES:

Investigator's Name:	Homicide Detectives Richard Biddle and Barry Hall
Court:	Criminal Courts Building
Charges Filed:	245 (d)(2) PC and 12021 (a)(1) PC
DA Case Number:	BA358997

On July 15, 2009, Deputy District Robert S. Nishinaka filed the above charges against Suspect Marquez. For further, refer to the District Attorney's filing Complaint listed under ***Exhibit A, pages 135-138.***

On March 8, 2010, a jury returned guilty verdicts for the above charges. Suspect Marquez was sentenced to 17 years in State Prison. Refer to Homicide Bureau's Log Entry presented as ***Exhibit H***.

LIGHTING AND WEATHER CONDITIONS:

It was a clear, warm, and dry summer night. The area was well illuminated by overhead street lights and lighting from the houses on the street.

INVOLVED EMPLOYEE STATEMENTS:

Deputy Noel Lopez *was interviewed during the investigation by Homicide Investigators Barry Hall and Richard Biddle on July 12, 2009, at 0248 hours. He did not have representation during his interview. Precise wording may be obtained by reviewing the digitally audio recorded interview located in IAB's audio files and/or the verbatim transcripts listed under the* ***Transcriptions, "Homicide Interview"*** *section of the casebook. For a summary of his interview with Homicide investigators, refer to* ***Exhibit A, pages 31 through 33***.

***Deputy Noel Lopez** was interviewed by IAB Sergeants Dinah Grote and Laura Haynes on May 20, 2010, at 0955 hours, at the IAB Commerce office. He was represented by Anna Slotky from Green & Shinee. Below is a summary of the interview. Precise wording may be obtained by reviewing the digitally audio recorded interview located in IAB's audio files, and/or the verbatim transcripts listed under the **Transcriptions, "IAB Interview #1"** section of the casebook.*

Deputy Lopez explained that he was driving a marked patrol vehicle with his partner, Deputy [redacted] the book-man in a "no call" summer enforcement crime car. Driving slowly north on Townsend Avenue, from Dennison Street, Deputy Lopez saw a male running south in his direction on the west sidewalk just north of his patrol car. The male (Suspect Marquez), who appeared to be a gang member, was reaching for his waistband approximately 15 feet north of the patrol car. Believing the suspect was possibly reaching for a gun, Deputy Lopez stopped the patrol car, put it in park, and exited the car. Deputy Lopez turned south toward the suspect and ran after him south bound on the sidewalk. As the suspect was running, Deputy Lopez saw the suspect holding a black colored handgun in his right hand, so he yelled out to Deputy [redacted] "He's got a gun. He's got a gun!"

> **IAB Note:** Deputy Lopez was not aware of any call for service on that street. It just happened that he was randomly patrolling the gang area.

Deputy Lopez continued to run south on the west sidewalk, approximately 20 feet behind the suspect, while he yelled out orders for the suspect to drop the gun. The suspect did not comply and he continued to run south. After running past two to three houses, Suspect Marquez cut east bound and ran south in the middle of the street, followed by Deputy Lopez who gained some ground on the suspect. Deputy Lopez heard the sound of "boots" running behind him and believed it was Deputy [redacted] who was going to put out emergent radio traffic regarding the foot pursuit, while he continued to run after the suspect yelling out orders to drop the gun.

Deputy Lopez was approximately ten feet behind the suspect as he (Suspect Marquez) cut east and ran south on the east sidewalk. Deputy Lopez continued to run in a southeast direction in the street, parallel with the suspect. To cut off the suspect's south bound path, Deputy Lopez ran south east around the rear portion of a parked, north-facing, Suburban or Blazer, still in the street. The suspect was at the right rear tire area of the vehicle when he turned and ran northbound a few steps, stopped, pivoted, and turned to his left. Raising his right arm over his left arm in a perpendicular fashion, Suspect Marquez pointed his handgun toward Deputy Lopez. Fearing he would be shot, Deputy Lopez said he fired two to three rounds from his duty handgun at Suspect Marquez.

IAB Note: Deputy Lopez actually fired two rounds and he did not recall the succession of rounds stating it happened "so quick."

Immediately, Suspect Marquez fell to the ground and began moaning. The suspect's handgun fell on the sidewalk north of the suspect. Seconds after the shots were fired, Deputy [redacted] ran to Deputy Lopez' side. Deputy Lopez then put out emergent radio traffic regarding the shooting. Upon arrival of assisting units, Suspect Marquez was handcuffed without further incident.

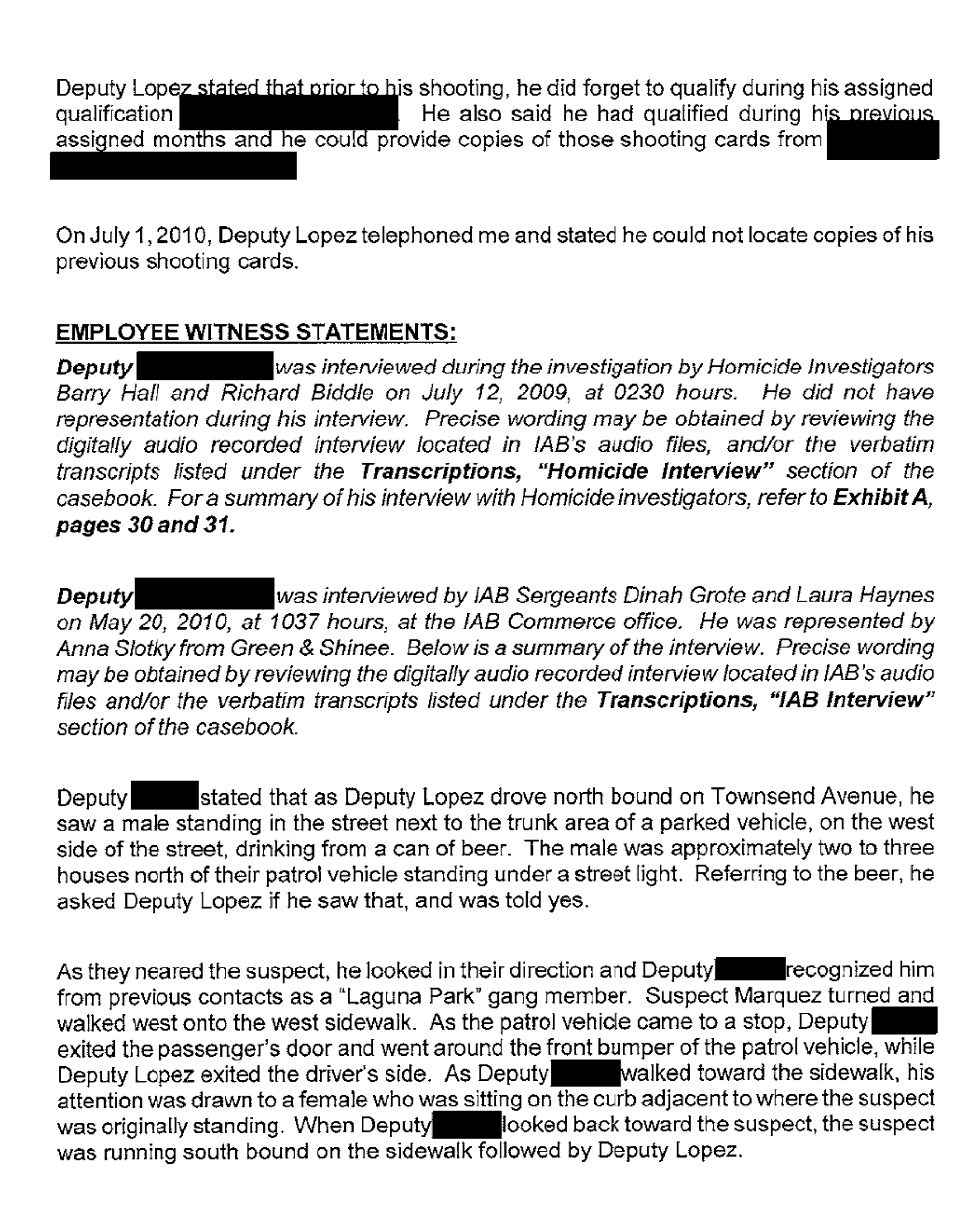
Deputy Lopez said he and Deputy [redacted] have had previous discussions about tactics and radio traffic responsibilities. Because he was the lead in the foot pursuit, Deputy [redacted] would have been responsible for putting out radio traffic. Deputy Lopez said he was focused on the suspect's hands/gun and that he had tunnel vision, unaware that Deputy [redacted] had fallen down. Had he known, he would have discontinued his foot pursuit.

During the foot pursuit, Deputy Lopez feared the suspect was going to turn back at any moment and shoot him. Although he never turned back to check, he heard "boots" running behind him and believed it was Deputy [redacted] He said had he discontinued the foot pursuit, he could have possibly lost sight of the suspect for containment purposes, and/or the suspect could use his handgun against other person(s). Deputy Lopez estimated from the start of the pursuit to the shooting, approximately 20-25 seconds had elapsed.

Not until after the shooting did Deputy Lopez recognize Suspect Marquez from a previous contact, which he and Deputy [redacted] had completed a Field Interview Report card on the suspect. For further, refer to ***Exhibit A, pages 86-87***. Deputy Lopez provided a diagram depicting the incident, presented as ***Exhibit B***.

In a check of Deputy Lopez's Weapons Qualification Records, it showed he last qualified with his weapon on [redacted] Refer to ***Exhibit C*** for a copy of Deputy Lopez's Training Records.

On June 22, 2010, at 1432 hours, Deputy Lopez was telephonically interviewed regarding weapons qualification. Precise wording may be obtained by reviewing the digitally audio recorded interview located in IAB's audio files, and/or the verbatim transcripts listed under the ***Transcriptions, "IAB Interview #2"*** *section of the casebook. He declined representation for the telephone interview.*



Deputy Lopez stated that prior to his shooting, he did forget to qualify during his assigned qualification [redacted]. He also said he had qualified during his previous assigned months and he could provide copies of those shooting cards from [redacted]

On July 1, 2010, Deputy Lopez telephoned me and stated he could not locate copies of his previous shooting cards.

EMPLOYEE WITNESS STATEMENTS:

Deputy [redacted] *was interviewed during the investigation by Homicide Investigators Barry Hall and Richard Biddle on July 12, 2009, at 0230 hours. He did not have representation during his interview. Precise wording may be obtained by reviewing the digitally audio recorded interview located in IAB's audio files, and/or the verbatim transcripts listed under the* ***Transcriptions, "Homicide Interview"*** *section of the casebook. For a summary of his interview with Homicide investigators, refer to* ***Exhibit A, pages 30 and 31.***

Deputy [redacted] *was interviewed by IAB Sergeants Dinah Grote and Laura Haynes on May 20, 2010, at 1037 hours, at the IAB Commerce office. He was represented by Anna Slotky from Green & Shinee. Below is a summary of the interview. Precise wording may be obtained by reviewing the digitally audio recorded interview located in IAB's audio files and/or the verbatim transcripts listed under the* ***Transcriptions, "IAB Interview"*** *section of the casebook.*

Deputy [redacted] stated that as Deputy Lopez drove north bound on Townsend Avenue, he saw a male standing in the street next to the trunk area of a parked vehicle, on the west side of the street, drinking from a can of beer. The male was approximately two to three houses north of their patrol vehicle standing under a street light. Referring to the beer, he asked Deputy Lopez if he saw that, and was told yes.

As they neared the suspect, he looked in their direction and Deputy [redacted] recognized him from previous contacts as a "Laguna Park" gang member. Suspect Marquez turned and walked west onto the west sidewalk. As the patrol vehicle came to a stop, Deputy [redacted] exited the passenger's door and went around the front bumper of the patrol vehicle, while Deputy Lopez exited the driver's side. As Deputy [redacted] walked toward the sidewalk, his attention was drawn to a female who was sitting on the curb adjacent to where the suspect was originally standing. When Deputy [redacted] looked back toward the suspect, the suspect was running south bound on the sidewalk followed by Deputy Lopez.

Deputy [redacted] ran south on the sidewalk approximately 15 feet behind Deputy Lopez, while the suspect cut east bound, then south bound into the middle of the street followed. Deputy Lopez was approximately ten feet behind him the suspect. Deputy [redacted] cut into the middle of the street and heard Deputy Lopez yell out, "He's got a gun!" Deputy [redacted] then saw the suspect running with a gun in his right hand. As Deputy [redacted] continued to run, he reached for his radio microphone to put out the foot pursuit and fell to the ground, striking his right hand, arm, and right knee against the concrete surface.

Immediately, Deputy [redacted] picked himself up and ran south approximately 20-30 feet behind Deputy Lopez. He saw Deputy Lopez run south bound on the east side of the street, west of a parked north bound facing Blazer vehicle. The suspect cut east bound across the front portion area of the same parked Blazer and onto the east sidewalk, running south bound as Deputy Lopez ran to the south side of the Blazer, losing sight of him.

In the street just north of the parked Blazer and approximately 20 feet from where Deputy Lopez was seen at the rear of the Blazer, Deputy [redacted] again grabbed his radio microphone to initiate a broadcast when he heard two to three consecutive gunshots. Not knowing if Deputy Lopez had been shot, Deputy [redacted] paused for a second and then ran toward the rear of the parked Blazer vehicle where he saw Deputy Lopez standing, pointing his handgun at the suspect who was laying on the sidewalk. After learning Deputy Lopez was not injured, Deputy [redacted] put out emergent radio traffic and waited for assisting units to arrive before handcuffing Suspect Marquez.

Deputy [redacted] estimated from the start of the foot pursuit to the shooting, the incident lasted approximately 20 seconds. He provided a diagram depicting the incident, presented as ***Exhibit D***, and photographs of his injuries from his fall, are presented in ***Exhibit E***.

NON-EMPLOYEE WITNESS STATEMENTS:

None.

SUSPECT STATEMENT:

On July 12, 2009, at 0410 hours, Homicide Investigators Barry Hall and Richard Biddle interviewed Suspect Marquez in the recovery room at Los Angeles County Medical Center. Due to the suspect's medical condition, the interview was postponed. Later that day at 1605 hours, he was re-interviewed by Detectives Hall and Biddle. Precise wording may be obtained by reviewing the digitally audio recorded interview located in IAB's audio files

and/or the verbatim transcripts listed under the ***Transcriptions*** *section of the casebook. For a summary of his interview with the Homicide investigators, refer to* ***Exhibit A, pages 33, 37, 38, and 39.***

MISCELLANEOUS SECTION:
None.



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JOHN K. SPILLANE • Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

JANICE L. MAURIZI • Director

November 30, 2009

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J. S. I. D. File No. 09-0448
L.A.S.D. File No. # 009-08319-0278-055

Dear Captain Smith:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 11, 2009, non-fatal shooting of Alexander Marquez by Los Angeles County Sheriff's Department Deputy Noel Lopez. We have concluded that Deputy Lopez acted lawfully in self-defense.

The following analysis is based upon investigative reports, property reports, analyzed evidence reports, and summaries of witness' statements taken during the investigation by the Los Angeles County Sheriff's Department (LASD), and submitted to this office by Sergeant Barry Hall on October 6, 2009. The District Attorney Command Center was notified of the shooting at approximately 10:45 p.m. on July 11, 2009. The District Attorney Response Team, comprised of Deputy District Attorney Corene Locke-Noble and District Attorney Senior Investigator [redacted] responded to the scene. They were given a briefing of the circumstances surrounding the shooting and a "walk-through" of the scene. Compelled statements were not considered in our analysis.

FACTUAL ANALYSIS

On July 11, 2009, at approximately 9:28 p.m. Deputies Noel Lopez and [redacted] were on patrol in the area of the 1000 block of Townsend Avenue in the City of Los Angeles. Lopez was driving a marked patrol vehicle and Duran was in the front passenger seat. As Deputy Lopez approached [redacted] Townsend Avenue, Deputy [redacted]

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saw a male, later identified as Alexander Marquez, leaning against the rear driver's side of an old Cadillac drinking from a beer can.[1]

When Lopez stopped the patrol vehicle to make contact with Marquez, Marquez immediately began to run holding the middle of his waistband. Lopez put the patrol vehicle in park, and began a foot pursuit of Marquez followed by [redacted] Lopez and [redacted] were shouting at Marquez to stop, but he failed to comply with their commands. During the chase, Lopez shouted to [redacted] that Marquez was armed. [redacted] saw that Marquez was holding a handgun in his right hand and began to broadcast this information on his radio when [redacted] fell to the ground.

Lopez briefly lost sight of Marquez when he ran into the middle of the street, abruptly changed direction, and ran behind a parked vehicle. Suddenly, Marquez stopped, approximately ten feet from Lopez's position. Simultaneously while pivoting to his left, Marquez brought his right hand up and pointed a handgun at Lopez. Fearing for his life, Lopez fired two rounds from his duty weapon striking Marquez in the abdomen and left arm. Marquez tossed the handgun away from himself.

Unbeknown to Lopez, during the chase, [redacted] fell to the ground and was several yards behind Lopez. Seconds later, [redacted] heard two or three gunshots. A loaded Hi-Point, model JCP .40 caliber Smith and Wesson semiautomatic handgun was recovered near where Marquez fell.

Los Angeles County Fire Department Paramedics treated Marquez at the scene and transported him to Los Angeles County Medical Center – USC Hospital (LCMC) for further treatment.

Investigators canvassed the area for witnesses to the shooting but were unable to find any eyewitnesses. The only witnesses to the incident located heard only gunshots and did not see the incident.

At approximately 4:00 p.m., after receiving treatment from Doctors Kenji Inaba and Tatyan Clarke, Sergeants Barry Hall and Richard Biddle interviewed Marquez in the jail ward of the hospital. Marquez admitted that he was an active member of the Laguna Park Vikings ("LPV") criminal street gang with the moniker of "Criminal." He had been drinking most of the day and was waiting on Townsend Avenue for his [redacted] to pick him up. Marquez was drinking beer and talking with an unknown female when he saw a marked Sheriff's patrol vehicle traveling towards him with its headlights off.

When Lopez and [redacted] pulled up next to Marquez he started running because he had a handgun in his front pants pocket. Even though Marquez knew Lopez and [redacted] were chasing him and had repeatedly ordered him to stop, he continued to flee. During his attempted escape, the gun in Marquez's pocket began to fall out. Marquez ran across the

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[1] [redacted] recognized Marquez from a contact that had occurred approximately three weeks before.

street to the sidewalk and behind a parked car. Lopez continued to yell at Marquez to "Stop or he would shoot." Marquez ignored the orders and ran past the parked vehicle.

Marquez ran to the back of the vehicle and discovered a fence blocked his path. Upon this realization, Marquez claimed he attempted to lie on the ground, when his handgun started to fall out of his pocket. Marquez admitted that he was facing Lopez who was only a few feet away when he tried to stop the gun from falling out of his pocket. While still facing Lopez, Marquez was shot and understood how Lopez believed he was in danger and was "just doing his job."

As a result of this incident the District Attorney's Office charged Marquez, in Superior Court Case Number BA358997, with two felony counts in violation of Penal Code section 245(d)(2), Assault With a Semiautomatic Firearm On A Peace Officer; and Penal Code section 12021(a)(1), Possession Of A Firearm By A Felon. Special allegations in violation of Penal Code sections 12022.53(b) and 12022.5 (a) and (d), Use of a Firearm, were also alleged. The matter is currently set in Department 128 for pretrial on November 19, 2009, and jury trial on December 4, 2009.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. (*People v. Williams* (1977) 75 Cal.App.3d 731.)

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. *California Criminal Jury Instructions 3470.*

When the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. (*People v. Collins* (1961) 189 Cal. App.3d 575).

CONCLUSION

The evidence examined in this investigation shows that Alexander Marquez, unlawfully in possession of a handgun, fled from the police during a consensual encounter. Marquez refused to comply with repeated commands given by Deputies Noel Lopez and [redacted] to stop and drop the gun. In an attempt to evade capture, Marquez ran behind a parked vehicle, only to discover that his path was blocked. Realizing his escape was futile, he turned and pointed his loaded handgun at Deputy Lopez, who was a short distance away. Fearing for his life, Deputy Lopez fired his service weapon, striking Marquez in the abdomen and left arm, and ultimately ending a potentially lethal situation.

Given the rapidly evolving, life-threatening situation that confronted Deputy Noel Lopez, we conclude he acted lawfully in self-defense. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By

CORENE S. LOCKE-NOBLE
Deputy District Attorney
(213) 974-3880

c: Deputy Noel Lopez #[redacted]